

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Calling Party Pays Service Offering in the) WT Docket No. 97-207
Commercial Mobile Radio Services)

COMMENTS OF U S WEST COMMUNICATIONS, INC.

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SUMMARY

U S WEST¹ supports the Commission's conclusion that CPP is a CMRS service. As such, we believe the responsibility for the success or failure of the offering lies with those wireless carriers who choose to provide the service.

The only area in which U S WEST believes there is a need for federal regulatory aid with respect to CPP offerings is in the area of the customer notification. We agree that a national, uniform notification would be best given the mobile nature of individuals in our society. Hearing the same message, over and over, despite location, tends to "drive home" the message in a manner that fifty different messages cannot hope to accomplish.

We agree with the Commission that the message should be the obligation of the CMRS provider and its network infrastructure. So too should the promulgation of any complementary or supplementary tone and the possible future migration from verbal disclosure to tone-only alerts.

The LEC network should not have to generate a message or respond to one other than by processing the call. Nor should the LECs bear any ancillary responsibility for call processing or special dialing patterns, call blocking, or CPP billing.

As is obvious from the discussion in our comments, some calls are more "ideally suited" to a CPP environment than others. The result is "leakage," where some calls (i.e., those between wireless customers, those from wireline customers in

¹ All acronyms, abbreviations or shortened-references used in this Summary are fully defined in the text.

hotels, from PBXs, etc. to wireless customers) cannot be easily recorded, rated or billed.

To the extent CPP is a CMRS offering, it is the CMRS provider community that should address and manage leakage. Various ways currently exist that provide some accommodation, ranging from charging wireless subscribers for CPP calls that cannot be billed to certain arrangements between CMRS providers and LECs regarding hotel/motel billings. Moreover, there are existing tools available throughout the industry that could provide CMRS providers even more and greater control over this matter should they choose to exercise it.

But, in no event should LECs -- or the telecommunications industry in general -- be conscripted as maidservants to a less-than-certain marketplace success -- optional CPP offerings by CMRS providers. Carriers should not be expected to establish special dialing patterns or dedicate numbering resources to the offering. Billing and collection companies should not be mandated to bill for what will certainly be at least marginally controversial billings.

Either CPP will succeed in the market or it won't. The Commission should not intervene with a heavy regulatory hand to "aid" those limited CMRS providers interested in the offering. Nor should it order others in the industry to change their telecommunications infrastructure, customer relations or non-regulated commercial offerings to satisfy the desires of those who want aid in underwriting their offering.

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I. **COMMERCIAL MOBILE RADIO SERVICE PROVIDERS MUST OWN CALLING PARTY PAYS AND BE RESPONSIBLE FOR ITS SUCCESS FROM THE CALL ORIGINATION THROUGH THE BILLING**

A. **The Generic Calling Party Pays Landscape**

The Federal Communications Commission's ("FCC" or "Commission") determination that Calling Party Pays ("CPP") is a wireless offering provided by Commercial Mobile Radio Service ("CMRS") providers is within the realm of logic and sound public policy.¹ While there are other possible regulatory classifications

¹ In the Matter of Calling Party Pays Service Offering in the Commercial Mobile Radio Services, WT Docket No. 97-207, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 99-137, rel. July 7, 1999 ("Declaratory Ruling" or "NPRM" depending on context) Declaratory Ruling ¶¶ 2, 7, 15-19 (holding that, as defined in paragraph 2, the offering is a CMRS offering). The Ohio Commission has filed a Petition for Reconsideration with the Commission on the issue of whether the Commission correctly concluded that CPP is a CMRS and the extent to which the Commission circumscribed state intervention in the offering. See Petition for Reconsideration and Clarification and Further Comments on Jurisdictional Issues Submitted by the Public Utilities Commission of Ohio ("Ohio Commission Petition"), filed Aug. 17, 1999. The Ohio Commission argues that CPP is not properly characterized as a CMRS (at 2, 6-10) and that, even if it were, the Commission has inappropriately staked a position of occupying the field *vis-à-vis* state commissions (at 2, 7-17). U S WEST disagrees and will consider the need to address the Ohio Commission Petition at greater length when it is publicly noticed for comment.

that might be chosen with respect to the offering,² holding that CPP is best classified as a wireless offering most clearly focuses on the providers responsible for the success or failure of the offering -- the CMRS providers.

Based on the Commission's analytical model, the Commission correctly concludes that the customer notification obligation it proposes as an integral aspect of the CPP offering lies with the CMRS provider.³ U S WEST supports the Commission's tentative conclusion to require a nationwide, standard notification to alert callers that a CPP call is about to be or is in progress. We believe the verbal customer notification message the Commission proposes, which includes general rate information, is the appropriate type and form of notification.⁴ And, we can envision the tone that some propose as being provided along with the verbal

² Compare the NPRM n.42, ¶¶ 72-73 (stating that an offering configured as described in those paragraphs (describing a common configuration of the service in Europe) would not appear to be a CMRS offering but a local exchange carrier ("LEC") offering). And see Comments of U S WEST, In the Matter of Calling Party Pays Service Option in the Commercial Mobile Radio Services, WT Docket No. 97-207, filed Dec. 16, 1997 ("U S WEST NOI Comments") at 1-4 (characterizing CPP as a billing option sometimes provided by LECs to CMRS providers), Declaratory Ruling ¶ 11 and n.20 (citing to U S WEST's position). And see Ohio Commission Petition at 2, 6-10 (claiming that CPP is nothing more than a billing option).

³ NPRM ¶ 30 (inquiring whether "there should be a uniform nationwide standard that specifies the manner *in which a CMRS carrier must indicate to a caller that the caller will be billed for his or her call to the CMRS phone or pager*"; ¶ 42 ("the calling party notification for CPP should consist of a verbal message *provided by the CMRS provider to the calling party*."). (Emphasis in both quotes added.)

⁴ U S WEST has previously advised the Commission of the general absence of information systems or technology that will permit real-time rate quotations. See Comments of U S WEST, Inc., CC Docket No. 92-77, filed Nov. 13, 1996 at 15-16. Thus, while there will undoubtedly be those who advocate for "exact rate quotations," the Commission should not mandate the rate disclosure take such form.

message⁵ serving a complementary customer notification function, and perhaps taking on additional CMRS network functionality over time.

While we are generally supportive of the Commission's framework conclusions around the CPP service offering, certain aspects of the Commission's analysis/decision warrant comment. Particularly in light of the Commission's repeated assurances that its goal in this proceeding is the removal of regulatory obstacles to the proliferation of CPP,⁶ the Commission should remain circumspect about taking additional regulatory actions that involve national resources (i.e., numbering resources) or the supporting infrastructure or services of other industry players (e.g., LECs and competitive LECs ("CLEC")) merely because some CMRS providers might desire such support (or more accurately "subsidization").

In particular, the Commission **(1)** should refrain from ordering specialized numbering or dialing patterns. Such are not necessary for call completion and will no longer be necessary as customer "notification" devices, once the verbal announcement the Commission tentatively concludes as necessary is in place; **(2)** should refrain from exercising jurisdiction over LEC billing and collection services and mandating their extension to CMRS providers seeking to offer CPP services. The facts to support the exercise of such jurisdiction are not present and the policy arguments asserted are facile and contrary to the associational rights of those sought to be encumbered by the regulatory obligation; **(3)** should refrain from becoming involved in CMRS claims for "help" in the area of "leakage." While the

⁵ NPRM ¶ 41.

current NPRM suggests that the “technical aspects” of this matter are being addressed elsewhere, thus requiring no immediate Commission attention,⁷ other aspects of the text imply that the full scope of the “leakage” issues might not be fully understood by the Commission or totally outside the realm of the advocacy pressed by certain CMRS providers. In any case, neither the networks nor the operating systems of the LECs should be converted into maidservants of CMRS providers in support of their optional CPP offerings.

While some CMRS providers argue that the dedication of **national numbering resources** or the assignment of **specific dialing patterns** are important to the success of CPP offerings, they are wrong. In fact, the arguments of those advocating against specialized numbering schemes for CPP offerings, on the grounds that such would curtail the flexibility of such offerings, are the more persuasive. Specialized numbering plans would require number changes as carriers move customers in and out of CPP offerings. The requirement to undergo number changes would be far more of an impediment or barrier to the success of CPP than not utilizing a common numbering scheme.

Similarly, special dialing patterns are not necessary for CPP call completion or its commercial success. While a 1+ dialing pattern is currently used by some LECs to alert their customers to the fact that a call with a charge to be assessed to them is about to be processed, the 1+ is not necessary to accomplish call set-up or call routing. Nor is such dialing pattern necessary for billing. Similarly, while

⁶ Declaratory Ruling ¶¶ 3, 5.

some CMRS providers have trialed special service access codes (“SAC”) with respect to the CPP offering (i.e., AT&T with its 500 trial),⁸ the SAC performs the same type of “alerting” function that a 1+ dialing pattern does.

Once CMRS providers have put into place the required verbal customer notification, “dialing alerts” will no longer be necessary. For these reasons, neither the dedication of special numbering resources nor special dialing patterns should be insinuated into the CPP offering.

Furthermore, CMRS providers deciding to proceed with CPP offerings should not be heard to complain that they cannot **bill and collect** for the services they want to offer, without conscripting the assets and services of other industry players and oft-time competitors (i.e., LECs and CLECs). It is absurd at this point in time for any service provider to claim it cannot secure reasonably priced billing and collection services.⁹ Given the burgeoning growth of billing aggregators and clearinghouses that have developed to support casual billing, smaller carriers and Information Service Providers (“ISP”), such assertion lacks all credibility. Indeed, based on the ex partes and filings that U S WEST has reviewed, most CMRS providers don’t even really put together their own business case as to why LEC billing is critical. Rather, they rely on arguments pressed by interexchange carriers

⁷ NPRM ¶ 26.

⁸ See NPRM ¶ 45 (referencing the trial). It should be noted that these trials were instituted prior to the mandate associated with wireless Local Number Portability (“LNP”).

⁹ NPRM ¶ 26. There the Commission states that a “possible obstacle[] to the greater availability” of CPP might be “arrangements for reasonably priced billing and collection services.” And see id. ¶ 28.

(“IXC”) around the matter of non-presubscribed or casual calling to support their case.¹⁰ In both situations, the arguments are insubstantial.

Every year the alternatives to LEC billing and collection services become more robust and competitive, as the marketplace increasingly appreciates that LECs will not be billing for others over time. Increasingly, LECs will naturally seek to differentiate themselves and their bundled services in the eyes of their customers from those of other carriers. So long as unaffiliated carriers are provided with information that is necessary for them to self provision (i.e., bill for their own services) or to enlist the aid of existing suppliers, no credible argument can be made that they lack sufficient billing alternatives.

Especially in the age of increased competition and service provider differentiation, no federal prescription requiring unaffiliated carriers to forcibly associate in a commercial communication is prudent; and the Commission should resist such entreaties. This is all the more the case in circumstances where customer confusion and push-back around CPP charges are a virtual certainty.

Finally, while the Commission seems to dismiss **the matter of “leakage”** as

¹⁰ Indeed, an ex parte of one of Personal Communications Industry Association’s (“PCIA”) members cites almost verbatim the arguments being made by MCI that LEC billing and collection is essential to IXC dial-around offerings. See Ex Parte Letter to Ms. Magalie Roman Salas, Secretary, FCC from Pamela J. Riley, Vice President, Federal Regulatory, AirTouch Communications, dated May 5, 1999 at 3. And see Public Notice, MCI Telecommunications Corporation Files Petition for Rulemaking Regarding Local Exchange Company Requirements for Billing and Collection of Non-Subscribed Services, Rulemaking No. 9108, 12 FCC Rcd. 8366 (1997). See also Declaratory Ruling ¶ 7, NPRM ¶ 51 (noting similarity between CPP and casual callers in a 10XXX environment).

a technical topic being taken up and resolved in industry fora,¹¹ it is U S WEST's belief that CMRS providers continue to assert that the responsibility for "correcting" leakage lies primarily with the LECs and CLECs as the gatekeeper to the originating calling party's entrance to the interconnected networks. In the opinion of some CMRS providers, LECs must undertake activities to protect those CMRS providers offering CPP against unbillable calls, including (a) providing CMRS providers with specific call origination information advising that the LEC cannot capture the calling detail desired by the CMRS provider or (b) block the call from proceeding. Of course, LECs should not have to do either.

CPP is a CMRS offering. If CMRS providers want to know attributes about the originating caller for their call processing or billing purposes, they should be expected to take advantage of existing LEC offerings and tools to secure that information. Moreover, if CMRS providers want certain calls blocked because they cannot be billed, they should do the blocking in their networks.¹² Finally, to the

¹¹ NPRM ¶ 26, referencing items that the Commission's prior Notice of Inquiry identified as possible obstacles to greater availability of CPP, and including "technical standards to control leakage" as one of those obstacles. The Commission never uses the term "leakage" again in the NPRM. And, in that same paragraph it states that "The technical standards to collect and pass information needed to bill the calling party for calls to a wireless phone are being developed by an industry group" and that there had "been no indication in the comments that the Commission needs to intervene in this process." Id.

¹² In the one state in U S WEST's territory where a "blocking option" was mandated with respect to CPP services, those services were never brought to market. Compare Comments of the Public Service Commission of Wisconsin, filed herein (undated), at 2-3 ("Wisconsin PSC Comments"), referencing the NPRM, comparing CPP to other "pay-per-call" services and arguing that "adequate options for all customer classes to block calls to CPP numbers are needed," without ever saying who should be responsible for the blocking. And see letter to the Secretary, FCC

extent that some carriers' networks are capable of providing support for CMRS providers in the area of leakage, no "national solution" should be mandated. Rather, carriers should be free to work out business arrangements that match the capabilities of their respective networks.

B. U S WEST's Current Thinking Around CPP Offerings

U S WEST's wireless operations are not themselves a commercial advocate of CPP,¹³ even though the wireline operations have worked with various CMRS providers over the years in aid of their successful provision of CPP offerings.¹⁴ As the Commission itself concedes, the offering is primarily a mechanism to shift billing and payment of CMRS charges to others.

U S WEST perceives some market risk to shifting financial responsibility for the CMRS airtime to the calling party. Many called parties, such as commercial goods and services providers, will probably not be attracted to the offering out of concern for staving off potential business.¹⁵ And, calling parties objecting to the

from the American Hotel & Motel Association ("AH&MA") dated Aug. 18, 1999 at 3 (arguing that blocking is necessary as is the case with 900 services); Lander University Comments, filed Sep. 7, 1999, generally; University of Michigan at 2 (comparing CPP to pay-per-call services).

¹³ Declaratory Ruling ¶ 1 (noting that "the success or failure of CPP offerings . . . reflects the commercial judgments of service providers" at least in part).

¹⁴ In U S WEST's territory, we currently support CMRS providers in their offering of CPP in a variety of different ways and approaches. In part, this flexibility was the direct result of a lack of federal policy and regulation in this area. CMRS providers filled the void by deploying a variety of approaches to CPP offerings.

¹⁵ See Ex Parte Letter to Ms. Magalie Roman Salas, Secretary, FCC from Donald C. Brittingham, Director -- Wireless Matters, Government Relations, Bell Atlantic, dated April 27, 1999 regarding "Calling Party Pays Research" ("Bell Atlantic April 27, 1997 Ex Parte") at 15 (noting that the business segment was less enthusiastic

practice might be as miffed at the CMRS provider as the individual they are attempting to call, eliminating a potential customer from that CMRS provider's reach.

Moreover, while we appreciate the alleged success of CPP in Europe,¹⁶ we believe the extensive measured service offerings available there make CPP far less "strange" an offering in that market than it will appear to customers in the United States, particularly those individuals who live in areas such as those served by U S WEST where less than 7% of lines are served by metered or measured calling. A calling party in Europe or South America, who is often used to paying per minute to call another party, would find it unusual if he/she was not charged to call a CMRS subscriber because "paying to call parties" is the *status quo*. In the United States, for better or worse, the general market expectation around local calling is that calling parties do not pay per call. Changing that expectation will take stamina and lots of ingenuity. In the meantime, we expect that "customer"¹⁷ backlash will occur and that the billing entity (whoever that may be) will take the brunt of that backlash.¹⁸

At this time, U S WEST is confident that our current CMRS offerings more

about CPP because it might appear to make them look cheap; and that CPP would not necessarily increase accessibility to them).

¹⁶ Compare NPRM ¶ 24 (noting that CPP stimulated wireless usage in European markets).

¹⁷ Declaratory Ruling ¶ 17 (noting that a CPP caller is a customer of a CMRS provider but not a "subscriber" (NPRM ¶ 54)).

than adequately address the market and financial needs of a broad range of potential subscribers. These offerings, which include a variety of pre-paid service offerings,¹⁹ allow our customers to control their CMRS usage and billings in ways that suit their individual needs. Thus, for all the above reasons (and others),²⁰ it is our current business expectation that our wireless operations will not be pursuing CPP any time in the near future.

Given this business decision, it is not surprising that our LEC operation is not interested in expending substantial sums of money in support of a CMRS CPP offering. Nor should any LEC be forced to underwrite this market experiment.

The Commission should keep these principles in mind in analyzing the comments it receives. In some ways, those CMRS providers arguing for special

¹⁸ See the attached article from Wireless Review, dated Aug. 1, 1999, discussing CPP in the United States versus Europe and posing the question as to whether the window of opportunity regarding CPP has passed.

¹⁹ The Commission expresses some particular concern with respect to the availability of CMRS offerings to “low income, and low-volume and mid-volume consumers.” Declaratory Ruling ¶ 3 and NPRM ¶ 22 and nn.48, 50 (noting that prepaid wireless telephone services are attracting new customers from socioeconomic groups not previously represented in that market segment). U S WEST believes that the pre-paid services serve these market segments extremely well, providing already the kind of “control” that customers of telecommunications services desire.

²⁰ For example we remain unconvinced that -- in any vast numbers -- CMRS subscribers will change their behavior and leave their sets on for longer and longer periods of time because they no longer will be financially responsible for incoming calls. Compare Declaratory Ruling ¶ 3 (claiming that there is significant evidence that CMRS subscribers might leave their handsets on and available to receive incoming calls if CPP were a part of their service options); NPRM ¶ 23. But see id. (noting that some subscribers will continue to turn off their handsets to conserve their battery lives and avoid disruptions to others). Battery lives remain insensitive to called parties’ intentions and generally do not support an “on” status for an extended period of time (at least not without daily re-charging).

numbering or dialing patterns, or LEC billing services or network blocking, attempt to impose costs on LECs that are not necessary for the technical operation of CPP. In all cases, the correct analysis is that LECs should not be expected to underwrite or subsidize other carriers' optional commercial offerings simply because they may be a "cheaper" alternative or an easy regulatory target.²¹ Rather, CMRS providers should be prepared to pay for the services they offer, including the supporting infrastructure and systems necessary to bring the services to market.²²

²¹ See Reply Comments of SBC, filed herein Jan. 16, 1998 ("SBC NOI Reply Comments") at 16 n.41 ("The question of whether a CMRS provider can efficiently and cost effectively offer CPP is not the relevant issue. LECs should not be required to perform billing and collection service for CPP simply because they may be able to do so more efficiently than a third party. The decision by a CMRS provider to incur additional costs to offer CPP is a market-based decision. The CMRS carrier must weigh the added costs of providing the service with the anticipated customer demand. If the customer demand is not sufficient, the provider will not elect to provide the service." (Emphasis in original.)). And see Opposition of U S WEST, Inc., In the Matter of MCI Telecommunications Corporation Billing and Collection Services Provided by Local Exchange Carriers for Non-Subscribed Interexchange Services, RM 9108, filed July 25, 1997 at 3-4 (petitioner "is requesting that it be subsidized for its own appropriate service billing and collections costs in a business . . . that it made a business decision to pursue"), 4-5 (petitioner "seeks to enlist the aid of the Commission to negotiate for it a better bargain than it [can negotiate] for itself and to force unaffiliated carriers to bill for costly-to-bill services at rates or under terms and conditions that ignore the profitability of such billing"), 11 (the "Commission should decline [petitioner's] invitation to subsidize its competitive offerings through the conscripted labor of unaffiliated entities. It should leave the matter of third-party billing to contractual resolution.").

²² Compare U S WEST Ex Parte, "Calling Party Pays," WT Docket No. 97-207, May 5, 1999 ("U S WEST May 5, 1999 Ex Parte") at 16 ("CMRS operators can make CPP more viable by taking advantage of their own infrastructure. To achieve their desired capabilities, CMRS operators must play a larger role in the operation of this service.").

II. NEITHER SPECIAL NUMBERING DEVICES NOR DIALING PATTERNS SHOULD BE PRESCRIBED IN CONNECTION WITH CPP AS “SUPPLEMENTARY” CUSTOMER NOTIFICATION DEVICES

As noted above, the Commission has tentatively concluded that it should require CMRS providers to include a verbal customer notification, with rate information, prior to the establishment of a CPP call. U S WEST agrees with the Commission’s tentative conclusion that proceeding with the call after such announcement creates a binding contract between the calling party and the CMRS provider.²³

Other than possibly the emanation of a network tone from the CMRS provider’s network to certain types of customer premises equipment (“CPE”), nothing “supplementary” to this notification should be required with respect to the CPP offering.²⁴ While the Commission notes that various carriers implemented special numbering or dialing patterns in connection with trial CPP offerings to “alert” wireline calling parties,²⁵ no such “alert is necessary once the more elegant verbal customer notification is put into place.”

But, the Commission’s inquiry into specialized numbering devices and dialing patterns actually seems to have less to do with the successful completion of CPP calls, or the “notification” to customers that such a call is about to be processed, than the suggestion that the numbering/dialing aids would allow for

²³ NPRM ¶¶ 30-33.

²⁴ Id. ¶ 48 (stating that numbering solutions “should serve to supplement” the customer notification system “not replace it”).

²⁵ Id. ¶ 45. And see ¶ 41 and nn.94-95 (citing to commenting parties suggesting such dialing patterns as alternative customer notification options).

customer blocking or restriction of access to CPP calls.²⁶ For example, the Commission notes that “[c]omments have been received that suggest a unique service code would be an effective approach [to customer notification] because it would mean that CPP calls would be readily identifiable, and **would enable telephone switches** and private branch exchanges (PBXs) to easily identify calls.”²⁷ The Commission expresses concern that absent some special numbering scheme or dialing pattern, switches, PBX owners and other businesses and organizations will be unable to control or block calls that might otherwise qualify as CPP calls.²⁸

This line of advocacy and inquiry is oblique from U S WEST’s perspective. Most calling parties do not “restrict” or “block” calls originating from their CPE. Rather, most customers simply control their phone and those who make calls from them (whether family members or employees). Outside of the 900/976 arena, the blocking of calls that have attendant charges on the outbound side are usually limited to those attempting to control their toll billings in an aggressive manner (to keep them below a certain level) or to prohibit them at all.²⁹ Why there is an

²⁶ Id. ¶¶ 46-47.

²⁷ Id. ¶ 46 (emphasis added). The emphasized language supports the concern that the Commission might imagine that blocking functionalities be lodged in the LEC’s network in all cases.

²⁸ Id. ¶¶ 46-47. And see AH&MA at 3 (“the existing lodging PBX equipment must be able to immediately recognize a CPP call”); University of Michigan at 2 (claiming that CPP “presents particular difficulties” for owners of PBXs).

²⁹ In its discussion around customer “notifications” and possible alternatives to the verbal notification the Commission tentatively concludes should be provided, the Commission inquires into “signaling system based solutions.” NPRM ¶ 47. It is not

expectation that the CPP environment should be different is not clear.

A. Specialized SAC Or NXX As Integrated Into CPP Offering

As the Commission notes, some carriers have utilized a specialized SAC, such as 500 to offer CPP.³⁰ This type of dialing pattern is not necessary to complete a CPP call, as is demonstrated by the fact that other CPP trials have been

clear to U S WEST exactly how the matter of signaling relates to a customer notification as opposed to network communications.

Initially, it is not clear what the Commission means by the phrase “signaling system based solutions.” For example, it could mean data or additional parameters in the Signaling System 7 (“SS7”) stream or something comparable. This might be reasonable, since that phrase is coupled with a reference to “line class codes,” suggesting some linkage in the Commission’s mind between the notion of signaling and information passed about aspects of a calling party’s status.

Part of our confusion stems from the fact that line class codes are not signaling solutions. As U S WEST has advised the Commission in the past, line class codes are associated with a customer’s line and advise the switch to take a particular action when confronting a certain situation (e.g., when certain digits are dialed). See, e.g., Reply Comments of U S WEST Communications, Inc., CC Docket No. 91-35, In the Matter of Request for Additional Comments on the Costs and Benefits of International Blocking for Residential Customers, filed May 8, 1995, at 8-10 and n.27. While the result may appear similar to a signaling result (from information included in an SS7 field, for example), line class codes exist in the switch and designate the customer’s type/class of service. They are not signaling codes and are not used or transmitted by signaling systems.

Moreover, LECs most often have had to “combine” NPAs or prefixes (NXXs) to be blocked into a single line class code identifier. In some cases, this was due to the fact that certain switches could only accommodate a limited number of line class codes; in other cases, the driver was simply line class code efficiency. Thus, for example, a customer’s decision to block 900 and 976 results in a “combined” but single line class code that blocks both the offending NPA and NXX.

To utilize line class codes as a CMRS CPP “management device,” there would have to be specialized numbering as an integral aspect of the offering. As indicated herein U S WEST (and much of the CMRS industry, we believe) opposes such specialized numbering. Thus, line class code “solutions” to whatever problem the Commission thinks they might resolve are really no solution at all.

³⁰ NPRM ¶ 45 (citing to AT&T trial).

accomplished without the use of such specialized numbering device. Moreover, in this particular case, the 500 SAC itself was not a “dedicated” SAC in the usual sense of the word, since that SAC has actually been used for other types of services.³¹

Once verbal notifications are in place, there is no need for “supplemental” or “complementary” notifications such as dialing patterns. Moreover, any such dialing patterns could only be instituted after concerted industry activity which would cost into the millions of dollars, only to result in a proposal to use scarce numbering resources inefficiently.

U S WEST agrees with those commentators -- such as CTIA -- who argue that the imposition of a specialized numbering scheme for CPP is not necessary or prudent.³² As CTIA notes, instituting a specialized number scheme for CPP would simply exacerbate the problems currently being realized with respect to numbering optimization and area code relief.³³

There is no good reason to dedicate a special SAC, NPA or NXX to CPP calling. Indeed, such dedication is unusual. The treatment of 900 services was really more the exception than the norm. Special treatment for this type of “calling party pays” calling scheme³⁴ was undoubtedly warranted in light of three

³¹ Such as MCI’s recently publicly noticed Section 214 application for discontinuance of its 500 Personal Number Service. Public Notice, NSD File No. W-P-D-434, rel. June 10, 1999.

³² NPRM ¶ 48.

³³ Id.

³⁴ See Wisconsin PSC comments at 2-3, comparing CPP to pay-per-call services.

intersecting considerations -- none of which is really present in a CPP offering. First, the offerings in question (i.e., the provision of content by an ISP) were not telecommunications services. Second, the content associated with the services was often highly controversial and in some cases distasteful to a vast majority of Americans and often resulted in “abusive” and extended calling times. And, third, the LECs’ networks were fairly easily able to combine a 900-block with a pre-existing 976 line class code block in a manner that allowed for fairly cost effective blocking. **None of this can be said for CPP.**

While the 500 prefix could be assigned to CPP, there is nothing about the “content” of the offering that warrants a specialized dialing mechanism. The services are telecommunications offerings and there is nothing to suggest that abusive or extended calling times would be an aspect of the CPP offering. Indeed, just the opposite is true.³⁵ Finally, blocking of a 500 prefix would require an entirely new blocking mechanism, if it were to be accomplished in the LEC-network, since it would not logically make sense to combine it with the current “common block” associated with 900/976. Stated another way, a customer wanting to block 900/976 calls might have no desire to block CPP calling capabilities.³⁶

Essentially, there is absolutely nothing about the CPP offering that would warrant its having a dedicated numbering application. Indeed, quite the contrary

³⁵ See Bell Atlantic April 27, 1999 Ex Parte Letter at 2 (stating that the average length of an incoming call is significantly shorter than for an outgoing call”; emphasis added).

³⁶ Compare University of Michigan at 3-4, stating that blocking calls to cellular phones is not in the University’s best interests.

is true. Mandating such a numbering application would require massive change outs of handsets and re-programming to reflect the changed customer number. Those that currently do know the CMRS subscriber's number would have to be advised of the change. And, if the CMRS subscriber determined later that he/she no longer wanted to associate with the CMRS provider's CPP offering (or the provider decided to stop offering it), a number change and a reprogramming of a handset would again be necessary. All of this number change activity seems far more a "barrier" to signing up for CPP than the problem sought to be solved by the establishment of a dedicated dialing pattern.³⁷

B. 1+ Dialing

As a general matter, 1+ dialing has been confined to interexchange toll

³⁷ In the past, U S WEST has argued that number changes do not constitute barriers to the establishment and growth of CMRS competition. Such is demonstrated by the ever-increasing number of CMRS providers and offerings as well as the industry customer "churn" figures. See Letter from Elridge Stafford, Executive Director, U S WEST, Inc. to Magalie Roman Salas, Secretary, Federal Communications Commission, Feb. 3, 1999, in WT Docket No. 98-229 (CTIA Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations), CC Docket No. 95-116 (In the Matter of Telephone Number Portability), NSD File No. L-98-134 (North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures) at 2 ("The industry 'churn' rate . . . shows that the need to change numbers is no impediment to customers' switching carriers."); Reply Comments of AirTouch Communications, Inc. and U S WEST NewVector Group, Inc., filed Oct. 12, 1995, CC Docket No. 95-116, RM 8535, In the Matter of Telephone Number Portability, at 4 ("wireless customers are generally not attached to 'their' wireless numbers. As a result, wireless customers are very willing to change telephone numbers when they can get better or cheaper service **from another carrier.**"; emphasis added). This is a different phenomena, however, than requiring a customer to change numbers for different services while remaining with the same carrier. We believe such a requirement would be a barrier to changes between CPP and non-CPP-type offerings.

calling in this country. CPP is not a toll call in the traditional sense;³⁸ and the use of 1+ is not necessary to accomplish the call processing.³⁹

While some LECs utilized such dialing to “alert” their landline customers that they were about to encounter a call that would lead to a charge to them,⁴⁰ this is not the best way to convey the information. Certainly, the CMRS provider’s verbal notification is a more direct, straightforward customer notification than is dialing 1+.⁴¹

It is true that the use of 1+ allows a type of “gross blocking” to occur. 1+ calling can be blocked through LEC-offered “toll restrictions.”⁴² Such restrictions generally block all toll, however. Thus, it seems unlikely that any customer would request a 1+ block to protect against the potential that someone, sometime would try to make a CPP call from their CPE on their premises. Indeed, it is the problem associated with the “gross” nature of the 1+ block that causes problems with its use

³⁸ Compare NPRM ¶ 45 (“Some carriers rely on 1+ dialing as the means to indicate to the caller that a toll is involved.”).

³⁹ Such dialing pattern is not necessary to capture or deliver calling detail. That is, the network provider does not need to utilize a 1+ dialing mechanism to be able to provide the serving carrier with Billing Name and Address (“BNA”). BNA is generally provided to a service provider after they provide to the LEC the originating calling number which they have captured and recorded in their network. It is not necessarily “generated” by any LEC outbound transport network activity; or if it is, it is not part of the BNA offering.

⁴⁰ See U S WEST May 5, 1999 Ex Parte at 4 (U S WEST utilized a 1+ “dialing pattern to alert callers to additional charges”).

⁴¹ Indeed, U S WEST offers an “enhanced” billing offering to those CMRS providers who desire it in connection with their CPP offering. Under the terms of this billing agreement, for local calls U S WEST does not utilize a 1+ dialing pattern when the CMRS provider provides a verbal customer notification associated with the call.

⁴² Compare NPRM ¶ 46.

for specialized calling problems such as employee “unauthorized” toll calls, including those with international destinations.⁴³

III. THE NEED FOR BILLING AND COLLECTIONS SERVICES VERSUS BILLED NAME AND ADDRESS

The suggestion that LEC billing and collection services are necessary for CPP to be successful are incorrect. While such services might be nice, they are not critical. At most, CMRS providers might need some type of billing information⁴⁴ (such as BNA)⁴⁵ so that they can provide this information to their billing agent of choice.⁴⁶ U S WEST currently has BNA tariffed at the federal level⁴⁷ that, with minimum modification, could accommodate CMRS providers offering CPP services.

A. The “Essential” Nature Of LEC Billing And Collection

The CTIA correctly states that LEC billing and collection services are not

⁴³ See the discussion of the Commission in the Fraud Proceeding, summarizing the arguments of some parties to the effect that PBX owners are responsible for fraudulent or unauthorized toll calls. In the Matter of Policies and Rules Concerning Toll Fraud, Notice of Proposed Rulemaking, 8 FCC Rcd. 8618, 8628-31 ¶¶ 20-25 (1993). For an example of a recent case where the Commission held the PBX owner responsible for fraudulent international calls, see In the Matter of Directel, Inc. v. American Telephone and Telegraph Company, Memorandum Opinion and Order, 11 FCC Rcd. 7554 (1996). Within the context of controlling fraud, among other reasons, some PBXs have internal capabilities that allow for blocking to some NPAs.

⁴⁴ NPRM ¶ 56 (“billing information sufficient for a CMRS provider to perform billing and collections”), ¶¶ 62, 66.

⁴⁵ Id. n.170, referencing the prior BNA proceeding in which the Commission determined that LECs should provide BNA to certain identified entities in certain circumscribed situations.

⁴⁶ For example, the CTIA asserts that nothing more is required. NPRM n.64 and ¶ 58.

⁴⁷ U S WEST Communications, Inc. Tariff F.C.C. No. 5, Access Service, § 13.3.14, Billing Name and Address (BNA) Service at 13-38.

necessary to the success of CPP.⁴⁸ Indeed, that has been U S WEST's experience.

U S WEST has been working collaboratively with CMRS providers for a couple of years. Some of these providers want U S WEST to bill for their CPP offerings and some do not.⁴⁹ Our past business practice has been to bill for these services; and, at this time, we envision no business imperative that would change our past practice in any material way.⁵⁰ Indeed, we have begun accepting "page ready" information from CMRS providers (similar to what we do with IXC's who provide us the billing information on a tape where no further bill processing is necessary). And, we are expanding our billing and collection offerings later this year to include "stand alone" billing options, where a service provider's bill is formatted, printed and sent to an end user as if it came directly from the provider with no intervening third-party activity.

Moreover, those billing aggregators and clearinghouses that were on the horizon for so long have now come into their own, offering services that reflect an

⁴⁸ NPRM ¶ 58, citing CTIA to the effect that it maintains "that there is currently no need to require LECs to provide CPP billing and collection, and that LECs only have to make available to CMRS carriers the data necessary to bill for CPP." (footnote omitted).

⁴⁹ U S WEST's experience suggests that the Commission is undoubtedly correct that technological and market developments have made billing for such calls more flexible. See NPRM ¶ 61.

⁵⁰ We are aware that one major LEC has determined not to bill for such services, which has increased the pressure from CMRS providers claiming the need for such services because the inability to secure some type of national billing arrangement can theoretically impede the success of a CMRS CPP offering.

On the other hand, "nationwide" billing arrangements can easily be secured through the billing aggregators that have grown up in the area of IXC billing for smaller carriers.

increasing maturation and understanding of their clients' needs as well as regulatory obligations. The participation of these billing entities in both the establishment of the industry "Anti-Cramming Best Practice's Guidelines,"⁵¹ and the Truth-in-Billing proceeding demonstrates a clear understanding of the needs of the industry and their commitment to providing services to fill those needs.

CMRS providers then have a multitude of alternatives available to them. They can bill on their own behalves (i.e., self-provision); approach LECs for negotiated billing and collection services either on an integrated basis or -- increasingly -- in a stand-alone bill format;⁵² they can work with billing aggregators for such services; or they can contract with commercial credit card vendors. The "alternatives" are obviously present and available.

Arguments such as those proffered by PCIA that LEC billing and collection services are somehow essential to the success of CPP simultaneously overstate the critical nature of those services to the success of the CMRS offering and understate the extent to which one industry segment -- CMRS providers -- seek to conscript the services of another industry segment -- LECs -- to underwrite the optional service offerings of the service-providing carrier. Moreover, the arguments are essentially devoid of facts, as advocates seek to bootstrap their arguments on the backs of the

⁵¹ Anti-Cramming Best Practices Guidelines rel. July 22, 1998.

⁵² To the extent that a LEC is prohibited from billing for a CMRS CPP offering through either state regulation or legislation, the Commission should deal with this matter separately than through a prescription of general applicability. See NPRM n.86 and ¶ 68.

IXCs clamoring for “casual caller” billing.⁵³ The Commission must resist this kind of entreaty.

The Commission should not mandate that LECs associate with unaffiliated parties in their bill to their customers. Increasingly, LECs are going to want to differentiate themselves from other providers who will be their competitors. And, the billing that the LECs do for themselves will -- increasingly -- be bundled into packages that include a range of telecommunications and non-telecommunications offerings.⁵⁴ It would be terrible public policy for the Commission to hold LECs’ billing to their own customers hostage to a requirement that they bill for others when they bill for themselves or their affiliated companies. Such is not fairness but regulatory blackmail. The Commission should decline to engage in such a manner.

B. Information Necessary To Bill

If there is a need for a regulated, mandated “solution” to the CMRS provider CPP billing “problem,” the “solution” is to require that carriers in possession of necessary billing information⁵⁵ make that information available to CMRS

⁵³ See note 10, *supra* and associated text.

⁵⁴ See In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd. 7492, 7525-26 ¶ 54 (1999); pets. for recon. pending; pets. for rev. pending, The Bell Atlantic Telephone Companies v. FCC, File No. 99-1844 (1st Cir.); Pilgrim Telephone, Inc. v. FCC, File No. 99-1821 (1st Cir.).

⁵⁵ NPRM ¶ 62 (inquiring whether the Commission should mandate “LECs provide to CMRS providers billing information sufficient for the CMRS provider or third parties to bill calling parties for CPP-related calls”).

U S WEST would urge the Commission to mandate such provision based on a theory other than that such is a unbundled network element (“UNE”) under Section 251(c)(3) of the 1996 Act. There currently is an entire proceeding on the scope of

providers.⁵⁶ While U S WEST currently has BNA tariffed at the federal level (and in some states; in others it is offered by contract), the tariffs might need to be modified slightly to allow for the provision of such information to CMRS providers.

The BNA offering would require CMRS providers to submit to U S WEST originating calling number information (recorded on the CMRS provider's network) so that it can be matched with the corresponding BNA. Also, CMRS providers would have to abide by the Commission's current restriction against marketing that appends receipt of the information.⁵⁷

IV. POLICIES AROUND "LEAKAGE" AND "BLOCKING" OF CPP CALLS

A. CPP Offerings Are Better Suited To Some Calling Parties Than Others

While the ability to successfully process and bill CPP offerings are better suited to some calling parties than others, the Commission's tentative definition of CPP makes no differentiation between different types of calling parties or calling

UNEs under the act pursuant to the Supreme Court's emphasis on "necessary and impair" standard and the Commission should not announce UNEs piecemeal in different proceedings. See New Release, FCC Promotes Local Telecommunications Competition, Adopts Rules on Unbundling of Network Elements, Report No. CC 99-41, rel. Sep. 15, 1999. Moreover, when the Commission quotes the phrase "information sufficient for billing and collection" it neglects to include language both before and after the phrase, specifically that the information in question must emanate from a "feature, function[], and capability that [is] provided by means of [a] facility or equipment." It is far from clear that BNA fits that definition.

⁵⁶ See Commission's observation that CTIA has gone on record as stating that such is sufficient. NPRM ¶¶ 57-58.

⁵⁷ 47 C.F.R. § 64.1201(c); and see AT&T Corp. v. FCC, 113 F.3d 225 (D.C. Cir. 1997).

environments.⁵⁸ Indeed, U S WEST believes that everyone would agree that the Commission's proposed definition of CPP is overbroad, particularly since it is not even confined to wireline calling parties. A more limited definition is needed.⁵⁹

CPP calling is best-suited to 1FR and 1FB wireline calls where there is substantial customer control over the CPE and those making calls from the stations on the residential and business premises. Not only does the technology "work" simply in such an environment but the standard legal⁶⁰ (and probably) customer expectation is that persons controlling CPE are responsible for calls placed over it.

As the calling environment becomes more complicated, moving out into environments involving complex CPE and dispersed managerial control, both the technical aspects of CPP and the ability to manage billings associated with calling parties becomes more complex. Simply put -- CPP does not work well with

⁵⁸ Declaratory Ruling ¶ 2 (The definition reads -- an offering made available to all subscribers of a CMRS provider "whereby the party placing the call to a CMRS subscriber pays at least some of the charges associated with terminating the call, including most prominently charges for the CMRS airtime."). The Commission explicitly states that this is the definition to be used in responding to the issues raised in the NPRM. Id. As is obvious, this definition makes no attempt to further differentiate between types of calling parties (i.e., wireless, payphone, calling card, those calling from specialized CPE). And see Declaratory Ruling ¶ 16, NPRM ¶ 24, suggesting that wireless calls are included in CPP offerings and that excluding them creates some kind of "limited" CPP offering.

⁵⁹ The Commission should change the definition of CPP to **exclude** calls between wireless customers and between wireline customers and wireless customers where the call will not be able to be billed. Such a definition would not "ruin" the CPP offering or deprive the CMRS provider of revenue. Rather, the CMRS provider can contract with its CMRS subscriber such that the latter is contractually bound to pay the charges in those cases where the calling party cannot be identified or billed.

⁶⁰ See, e.g., U S WEST Communications, Inc., Iowa Tariff No. 1, Exchange and Network Services § 15.4(D)(2).

complicated or sophisticated CPE or calling environments.⁶¹ Sometimes the problems are associated with the technical call completion part of the process; sometimes with the billing. But, it must be remembered that the problem is that of the CMRS providers to solve -- not other carriers or network providers.

B. Carrier Responsibility To Control And Manage “Leakage”

1. “Leakage” is a Problem for the Service Provider

The inability of a CMRS provider to capture information about and bill all types of calling parties is referred to as “leakage.”⁶² As a general matter, U S WEST believes the use of the term is unfortunate and we would prefer its elimination from the CPP discussions.

⁶¹ U S WEST’s early analysis also suggests that Telephone Relay Service (“TRS”) calls would be problematic, since the “calling party” would appear to be the TRS provider rather than the originating caller. (See Declaratory Ruling ¶ 7, NPRM ¶¶ 44, 63, where the Commission requests comment on the compatibility of CPP and TRS offerings.)

⁶² See note 11, supra. And see U S WEST May 5, 1999 Ex Parte at 5 (“Cannot bill for certain calls (leakage)”); GTE Dec. 16, 1997 Comments, filed herein at 13-14 (“A second barrier to providing CPP is leakage. Leakage results from a number of factors. . . . [M]ost calls originated from coin phones, hotel or motel phones, other wireless phones, interexchange carrier networks, or calling card or credit card-billed calls cannot be collected by the CMRS provider.”); Bell Atlantic Dec. 16, 1997 Comments, filed herein at 3 (“A CMRS carrier that offers CPP service today faces a significant risk that it will not be able to bill the caller for many of the calls to its CPP service. This leakage problem can occur where the caller is not the subscriber for the phone (e.g., public telephones, hotels, hospitals) and where the call transits another carrier’s network (e.g. long distance calls).”); AirTouch Dec. 16, 1997 Comments at 25-27 (“Another significant barrier to CPP is the problem of uncollect[a]ble revenue, or ‘leakage[,]’ which AirTouch notes can stem from problems associated with the exchange of billing information as well as network interconnectivity, such connectivity affecting call recording and database access). And see AH&MA, generally, addressing who is the “calling party” in a hotel/motel/customer context.

The problem with the word “leakage” is that it is often used by CMRS providers in a manner that suggests that LEC networks allow call set-ups and call processing to occur in a manner that is “faulty” *vis-à-vis* a successful CMRS CPP offering. CMRS providers then argue that LEC networks and billing systems somehow bear sole or share responsibility for the fact that some calls don’t work well within the CPP model.

But there is nothing “faulty” about the LECs’ systems, either network or billing. The existing LEC network is operating fine. However, the desire of a class of carriers (in this case CMRS providers) to institute a new service is butting up against a network that was not designed for the kind of calling and billing arrangement necessary to support the CMRS providers’ desired CPP offerings.

That is, for the most part, calling parties do not pay for local calls to other parties in the United States. For the most part, the LECs’ local networks are not set up to support such calling regime. While the call processing can generally be accommodated pretty easily (for most kinds of CPE), “customer care” (including billing) functions are more problematic.

It is in the area of the “customer care” and billing functions where CMRS providers seem to want to foist responsibility off on other network providers, such as LECs, to “fix” the “problem.” The “problem” -- if it can be said that there is a problem at all -- is in trying to foist a ubiquitous CPP offering on networks and systems not designed to support the offering; and then expecting non-CMRS network providers to “fix” the problem through some type of mechanism (special

numbering, blocking, etc.).

Any proposed technological “fixes” -- including further technological tools for determining the type of originating call, its billing capability and any potential for incoming calling party blocking -- must be done in the CMRS network or the CPE. It is certainly not the LECs’ obligation to protect PBX or pay station owners from “unwanted” dialing to CMRS providers. If any carrier bears that obligation, it should be the CMRS providers. And PBX owners cannot escape some responsibility for call/charge management. Equipment owners cannot rely on “frozen” equipment capabilities and argue for others to “protect them” from new products or services.

2. Proposal for Managing Leakage

Some CMRS providers desiring of providing an optional CPP service will undoubtedly argue that solving the leakage problem requires a “national solution.” But, U S WEST disagrees. Leakage is currently being addressed through a variety of mechanisms, depending on the agreements reached between wireline and wireless carriers and wireless carriers and the CMRS subscribers. Nothing needs to be done to change that landscape.

As noted above, one of the primary ways in which a CMRS provider can “control” or “manage” leakage is by making certain that its contracts with its CMRS subscribers allow the provider to bill the subscribers for all inbound CMRS calls from calling parties that cannot be billed to the calling party.⁶³ In this way,

⁶³ See note 59, supra.

obviously, the CMRS provider does not suffer “uncollectable revenue” and is made whole for the overall provision of CMRS.

Another way that leakage can be managed is through existing telecommunications offerings provided by carriers (LECs in particular) through which CMRS providers can determine whether a call should be processed as a CPP call or not. Information to aid the CMRS provider in making this determination resides in the LECs’ Line Information Databases (“LIDB”). CMRS providers can query those databases, secure the necessary information, and determine whether or not to process the call for “routine” billing or require some type of alternative billing mechanism/information, such as credit card billing.⁶⁴

Like so much of the debate around responsibility for the success of the CPP offering, however, CMRS providers balk at the idea that they should be responsible for assessing the type of originating call coming into their networks or the ultimate billability of the call. Rather, they want the LECs to “send” them the information, presumably through some type of signaling message or to stop the call from being processed (i.e., blocking).

With respect to the type of call involved, it seems obvious that when it is the CMRS provider that wants to know the type of call entering its network in order to determine the most appropriate “billing mechanism” to use, it is that carrier’s

⁶⁴ And see the Commission makes reference to “new technological developments” that might aid in the provision of billing information to CMRS providers. NPRM ¶ 61 and n.158. To the extent these developments exist, they probably would aid not only in the billing of the CPP calls but the decision whether or not to “accept” the call into the CMRS provider’s network in the first instance.

responsibility for determining the type. To the extent that any network or billing functionality needs to be created to allow this kind of differentiation to occur, it is up to the CMRS industry to expend the funds to allow it to happen. It is not the job of interconnecting carriers to underwrite or subsidize the creation of the functionality or a CMRS provider's ongoing operation.

With respect to the desire for blocking, that too should reside on the CMRS network. While specialized numbering or dialing patterns might facilitate the ability of customers to block CPP calls pursuant to current **LEC-network** environments in some cases,⁶⁵ those networks lack the capability to do blocking where there is no special numbering scheme. Given the fact, then, that no network has the kind of blocking mechanisms that would be necessary to block a CPP call outside of a specialized numbering environment, the matter becomes one of “policy” and equity around the subject of where such blocking functionality should reside. The answer seems obvious to U S WEST: the offering is a CMRS offering; any blocking desired should be done in that network. It may be, for example, that the “tone” that some CMRS providers suggest accompany their verbal message to customers might be modified such that manufacturers can create CPE that “responds” to the tone and disconnects the call in progress.

V. CONCLUSION

For all the above reasons, the Commission should stay the course with respect to its finding that CPP is a CMRS. Accordingly, it should make clear that

⁶⁵ Compare the Commission's explicit reference to these networks in the NPRM ¶ 46.

CMRS providers are responsible for the success or failure of CPP in the marketplace.

Beyond a national notification, the Commission need not become involved in other attributes of the CPP offering, ranging from the initiation/origination of the call through its billing. Those arrangements can be made -- and have been being made -- through negotiations between CMRS providers and others who are in a position to offer the support needed or pay charges sufficient to cover the uncollectable charges associated with CPP.

U S WEST believes the CPP environment outlined above will allow CPP to be tested on its own merits. That is the environment the Commission should strive to achieve, especially to the extent that new and creative CMRS offerings may have dampened the market need for, and customer acceptance of, CPP.

Respectfully submitted,

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If calling party pays (CPP) does not progress past its orphan status in the United States, proponents will no longer be able to blame government inaction. The FCC has declared CPP a commercial mobile radio service and adopted a rulemaking proposal to encourage CPP billing. But the viability of CPP in the United States hinges on a variety of factors other than a government-guided uniform billing and collection system. Despite pockets of enthusiasm, a growing number of carriers say CPP's time has come and gone while it was sitting on the regulatory backburner.

"When we first started working on it two years ago, CPP seemed to be extremely popular with all of the carriers as well as CTIA," said Jim Thompson, Illuminet senior manager of wireless technology. "As time has gone on, it has had less and less support from carriers."

BellSouth offered CPP in Honolulu for nearly three years before discontinuing the service in December 1997 because there was not enough customer support.

"We found there was more interest in some of the packaged plans and special offers than CPP," said Art Morrison, BellSouth Cellular manager of federal regulatory strategy. According to Morrison, research shows carriers will have a hard time creating a business plan for the service, because the effects of competition and competitive rate plans make the market case for CPP less attractive.

"We are all for providing it, if we can make money," he said. "But we've done studies that lead us to believe now we could not make a business out of it."

Similar reports chime in from other carriers, including AT&T Wireless and GTE Wireless, which have conducted trials and echo concerns about making the CPP business model work under current conditions. The Yankee Group came to a similar conclusion in its 1999 Mobile User Survey.

"CPP is an idea whose time came five years ago, and we missed the boat," said Mark Lowenstein, Yankee Group senior vice president. "The market has moved on."

SUPPORTING THE CAUSEIn June, CTIA -- which has been steadily beating the CPP drum for three years -- canceled its proposed CPP Forum scheduled for July 7-8. According to Thompson, a notice from CTIA said a CPP forum now

would be untimely.

"CTIA has delayed again, and with carrier support waning, it is going to be difficult to generate a lot of carrier excitement," Thompson said.

In July 1997, CTIA put together a steering committee to look at CPP issues. In January 1998, the technical work group completed an initial service-requirements document, which it sent to the appropriate standards bodies. Despite the cancelled forum, which was scheduled to revisit the technical specifications, the organization maintains it still encourages the opportunity to give CPP a shot.

So do several carriers, including Bell Atlantic Mobile (BAM) and Omnipoint.

BAM, a long-time CPP proponent, even issued a public statement last month to support the FCC's decisions.

"The leadership of Chairman Kennard and the commissioners on CPP is a giant step forward for wireless consumers ... ," said Dennis Strigl, Bell Atlantic Wireless Group president & BAM CEO. "CPP will make wireless immediately more valuable for current consumers, more affordable to those who do not yet have wireless, and more competitive with landline service."

According to Jerry O'Brien, Omnipoint senior director of legal and regulatory affairs, it all comes down to wanting an equal playing field.

"We're talking about competition and giving something to the people and still making money," he said.

O'Brien noted that introducing a nationwide CPP option would do wonders for Omnipoint. He said that although on a phone-per-month basis wireless is cheaper than wireline, and it has a larger calling area, it is at a disadvantage because customers have to pay for incoming calls.

"Being one of the few companies in telecom that is not owned by something else, this is our only business, and we are advocating statewide overlays," he added.

O'Brien admitted Omnipoint's CPP trial in Allentown/Bethlehem, PA, turned up little support from wireless customers ensconced in the current system where users pay for both incoming and outgoing calls. In many cases, he said, when callers heard the notification that they would be charged for placing a call, they simply hung up.

However, he pinned the problem on billing and said a kick-start from the FCC is just what the telecom industry needs to move CPP forward.

"Allowing for CPP would add subscribers and give true competition to the LECs. They could then easily be able to enter the long-distance market, which is what they want to do," O'Brien added.

WANING SUPPORT Other carriers aren't as optimistic. AT&T Wireless' current trial in Minnesota is a case in point. For the trial, the carrier doles out numbers with a 500 prefix, which it secured five years ago. The prefix enables a customer to be billed under that number automatically without cumbersome notification and confusion. Yet, the service has received only

moderate interest, according to Dan Youmans, AT&T spokesman.

"For some people it works really well," he said. "But for others, since they are not used to it, they prefer to pay for the call themselves."

GTE Wireless turned up inconclusive evidence during its mid-1990s CPP trial in Hawaii. The carrier determined the marketplace was not ready for it and that the elements needed to roll out a successful service -- customer demand, regulatory support and technical infrastructure -- didn't exist.

"In the United States when people make calls from a landline phone, the expectation in most cases is they have unlimited free calls to local numbers," said Ira Gorelick, group manager, new products and services. "When you start adding costs to those bills, we found the marketplace was just not comfortable with that as opposed to other places in the world where metered billing is the norm."

But GTE is not ready to sound the death knell on CPP.

"A big element is obviously the cost of those calls," Gorelick added. "When we did our trials, wireless was still fairly expensive. At some point -- and we feel we are approaching that horizon -- the cost per minute will come down so much that it will be much easier to get used to a non-flat rate. Consumers may not be upset about paying for a call if it is a matter of pennies."

TRANSLATING INTERNATIONAL SUCCESS Proponents often tout international success in Latin America and Europe as proof that U.S. carriers need the CPP option. BellSouth, for example, provides CPP in 12 countries and has seen subscriber spikes in all of them. After implementing CPP in Uruguay, BellSouth realized a 30% increase in minutes of use (MoU).

So, why is the United States different? U.S. callers are not used to metered calling. And in countries where CPP is succeeding, typically there are only one or two LECs and just a few wireless carriers compared with the United States where some markets are home to six or seven carriers. The lack of carriers makes the clearinghouse process much easier; provides for more seamless billing, recording and operations; and decreases leakage risks.

Additionally, the majority of U.S. markets lack dedicated wireless numbers, which exist in other countries, that signal a consumer would pay for a call under the CPP billing structure. The current infrastructure requires an up-front announcement to the calling party, which is not favorably received.

"In Europe, the cell phone is not as much a luxury as a necessity. They've grown up with the pay structure the way it is now. In the United States cell phones were looked at as luxury. With CPP, people think, 'Why should I pay for your luxury?'" Illuminet's Thompson said.

Luxury or not, there are plenty of wireless interests that believe the United States must perpetuate competitive freedom, a philosophy strongly espoused at CTIA.

"When you have a situation where 60% of consumers in America can choose from six wireless carriers, and prices have decreased over 50% over the

last four years, it is imperative that those competitors start looking for other competitive tools," said Tom Wheeler, CTIA president. "It is ridiculous to deny one of those competitors the option to offer something like CPP just because some of the other competitors may think they don't want to do it."

Wheeler believes it is incumbent on the FCC to jumpstart the business. He said U.S. consumers should have the same competitive alternatives that consumers in other countries have.

"If it doesn't work in the marketplace, so be it. If it does work, so be it. The problem now is all we have is opinion because the government has not taken the necessary steps to permit a competitive marketplace," Wheeler said.

The first steps are being taken in the Notice of Proposed Rulemaking, which ideally will get at the details of billing and collection. It will address issues such as who pays for the caller alert, who eats the cost for the time the announcement is played, and how to handle calls originated from payphones.

If there is any hope for CPP, a lot of work is needed to fix the telecom market's fragmented billing systems. According to Lowenstein, CPP implementation is a significant billing and back-office challenge.

"There has to be consistent billing and collection across the marketplaces, and we would like to see the FCC help us with that," GTE's Gorelick agreed. "If the FCC can make rules that make it easier to form billing and collection agreements, the easier it will be for marketplace to accept."

A LOW PRIORITY Ultimately, all carriers must consider customer demand in their own markets. The real question is: Given flat-rate calling models, bucket calling plans and free incoming minutes, would CPP actually increase subscriber numbers and/or MoU?

The Yankee Group argued that domestic growth is doing just fine without CPP. Research showed PCS carriers are reporting 300 MoU per month, which is triple historical levels and higher than most of Europe.

AT&T Wireless' Youmans said although it continues to assess CPP, its priorities are elsewhere. It will rely on solutions such as Digital One Rate and find enhancements that allow it to be more cost-effective within its current billing structure.

"There are a lot of opportunities for wireless carriers to provide services to customers that we are all pursuing. CPP is just another one," Gorelick said. "We need to put it in proper perspective in terms of how aggressively we solve that when there are other problems (such as) nationwide 911 that are more pressing. The marketplace has already spoken. In the United States, CPP is not on top of people's agendas."

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CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused 1) the foregoing **COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be filed electronically with the FCC by using its Electronic Comment Filing System, and 2) a courtesy copy of the **COMMENTS** to be served, via hand delivery, upon the persons listed on the attached service list.

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September 17, 1999

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